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### **REMARKS**

Claims 1-12 stand pending and claims 1-12 were rejected in the final Office Action. Claims 1-12 are amended herein and Applicants respectfully request entry and favorable consideration of the amendments and remarks presented herewith.

#### **Claim Rejections Under 35 U.S.C. §103**

Claims 1-12 stand rejected under various combination of art including Olson et al., Obel et al., Anderson, Kaib et al. and Rockwell et al..

Applicants note that Olson, Anderson, Kaib or Rockwell even mention the terms (or notions regarding) "implant" or "implantable" – which limitation is now included in all the independent claims herein. Applicants respectfully assert that absent *some* teaching or suggestion, which might motivate one of skill in the art to combine one or all of the references, the Examiner has failed to lodge a *prima facie* obviousness rejection. Applicants respectfully suggest that the rejections of claims 1-12 have been successfully overcome and the grounds of rejection withdrawn.

Furthermore, the Examiner seems to have focused on battery charging and status indicators as none of the primary references describe or depict capacitor charging and status indicators.

For example, Obel discloses the following in its Abstract:

Method and circuit for determining the battery status in a medical implant

#### **Abstract**

In a method and an apparatus for detecting the status of a battery in an implantable heart stimulator, the battery impedances measured and an increased value of the measured impedance is detected, from which an impedance based value of the remaining battery capacity is determined. The increase in impedance is analyzed to determine whether the impedance increase is a reliable indicator of the remaining battery capacity. If it is determined that the impedance increase is not reliable for determining the battery

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capacity, the total charge depletion of the battery is measured and a charge depletion-based value of the remaining battery capacity is determined. (emphasis added.)

Also, Olson provides a similar disclosure:

Defibrillator battery with memory and status indication guage [sic]

#### Abstract

A defibrillator battery includes at least one battery cell, a housing surrounding the at least one battery cell, and a memory connected to the at least one battery cell. The memory can be positioned inside of the housing that surrounds the at least one battery cell. The defibrillator battery can be used with a defibrillator including a battery status indicator which communicates with the defibrillator battery to indicate the status of the defibrillator battery. In a method of determining defibrillator battery status using the defibrillator battery and associated battery status indicator enables an operator to always determine the remaining charge of the battery and to determine when to replace the battery. The defibrillator battery, and associated battery status indicator, insures constant readiness of an automated external defibrillator for defibrillating a patient by preventing defibrillator failure due to an unknown reduced battery charge. (emphasis added.)

Similarly, Anderson provides the following:

Method of displaying a status condition of a battery

#### Abstract

A method of displaying a status condition of a smart battery being charged by a smart battery charger. The method includes: transmitting data from the smart battery to a computer, wherein the smart battery charger is external to the computer; processing said data in accordance with a software program being executed by a central processing unit within the computer; and displaying information obtained as a result of processing said data on a display screen coupled to the computer. (emphasis added.)

Kaib likewise relates to batteries, as shown by the following:

Battery management apparatus for portable electronic devices

#### Abstract

A battery management system preferably has a base station utilized in connection with a portable electronic device for providing electrical therapy to the body of a patient in response to the occurrence of a treatable condition. The portable device can have a rechargeable battery, memory, data processor for determining available operating time for the portable device prior to recharging, and a display panel, or alarm, to inform the patient of such available operating time. The portable device data processor contains an

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analog to digital converter which is used to obtain and record data regarding the patient, the battery, and the portable device operational status. The base station can have a receptacle to receive the portable device, including a port for transferring data between the memory of the portable device and the base station, a power supply associated with the port for supplying charging current to the battery, a computer for exchanging information with the portable device memory, and a battery maintenance portion. The maintenance portion can perform tests on the battery to evaluate the condition thereof. The base station can further include a display and alarms to inform the patient regarding the condition of both the battery and the portable device. The portable device can also include a converter-defibrillator and a second battery maintenance portion which can operate independently of the base station. Tests can be performed, during operation of the portable device, to evaluate the condition of the battery while the portable device is separated from the base station. (emphasis added.)

In contrast, Independent claim 1 of the instant application is clearly directed to *capacitors*:

1. (Previously presented) A software system in cooperation with an implantable medical device microprocessor and circuitry to provide dynamic, real time display of capacitor charge/discharge performance and energy status, the software system comprising:
  - a graphical user interface indicating a plurality of status parameters for at least one capacitor operatively coupled to an implantable cardioverter-defibrillator (ICD);
  - means for initiating access to said plurality of status parameters; and
  - means for manifesting said dynamic, real time display of the status.

Rockwell deals mainly with neither batteries nor capacitors as shown by the Abstract thereof:

#### Defibrillator with wireless communications

##### Abstract

A defibrillator having infrared communication capability is provided. The wireless communications capability is implemented using infrared light or RF communications and standardized communications protocols such as the IRDA protocol to allow for ready communication between defibrillators such as during handoffs of patient along the Chain of Survival. The wireless communications network also allows for communications between a defibrillator and a host computer such as a palmtop for incident report generation after each handoff. Another embodiment of the present invention provides for

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a defibrillator having an infrared mode switch to allow for restricted access to advanced cardiac life support (ACLS) features of the defibrillator. A further embodiment of the present invention provides for a defibrillator having a remote training mode that is implemented via wireless communications. Another embodiment of the present invention provides for a defibrillator test system that is implemented via wireless communications. A further embodiment of the present invention provides for a live ECG telemetry data link using the wireless communications system.

As a result of the attempt to apply essentially non-analogous art, the Examiner has failed to provide a *prima facie* obviousness rejection and the pending claims 1-12 should be allowed to pass to timely issuance as U.S. Letters Patent. At the very least, Applicants respectfully request that the Examiner reconsider the finality of the instant Office Action so that the claimed invention can receive examination on the merits.

#### CONCLUSION

Applicants respectfully assert that the presently pending claims 1-12 are now in condition for allowance and solicit the Examiner to issue a Notice of Allowance in due course so that the claimed invention may timely pass to issuance as U.S. Letters Patent.

The Examiner is invited to contact the undersigned with any questions regarding the foregoing Amendment and the instant application.

Respectfully submitted,

Date

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